

**TOWN OF SALEM BOARD OF SUPERVISORS  
SPECIAL TOWN ELECTORS MEETING  
THURSDAY, NOVEMBER 4, 2010, FOLLOWING THE PUBLIC HEARING  
SALEM TOWN HALL MUNICIPAL BUILDING**

**Chairman Linda Valentine opened this Town of Salem Special Electors Meeting at 7:47 p.m.**

with the following present: Linda Valentine, Dennis Faber, Diann Tesar, Joe Meier, Mike Murdock, Chris Lamb, Mike Slover, Attorney Scholze, Jack Rowland, Patrick Casey, Dave Shortess, and Cindi Ernest.

**Guests:** Adam Quirk, Greg Kiesler, Marla Andrea, Lynn Murdock, William Schulz, Melanie Peterson, Dean Andrea, Tom Seep, Chris Gustafson, Gregg Peterson, Dan Campion, Mary Ann Messier, Jo Weidman, Robbie Wagner, Violet Miller, AB O'Brien, Barb Cross, Jerry Leslie, Carol Husnick, Fran Richardson, Karen Ihlen, Bradley J. Smith, Michael Ullstrup, Dan H. Glaves, Amber N. Glaves, Greg Brown, Carole Dienthal, Marc Paulsen, Cindy Tanski, Jason Busser, Jay Kiesler, Kelly Morris, James Valentine, Bea Campion, BJ Messier, Janet Wagner, Carl Siegel, Bill Carey, Thomas O'Brien, Linda Rizzo, James Cross, Pat Leslie, Kathie Gerretsen, Teresa Curley, John Roberts, Henry Will, Chris Skrzynechi, Eileene Andersen, Crysti Neuman, Marilyn Glaze, Scott Ehlert, Don O'Rourke, Jill Rozell, Jason Stalker, Randy Herried, Darrin Hillock, and Denny Howard.

There are 59 eligible electors present at this meeting.

Elector, Chris Gustafson, requested the following questions be read into the minutes and answered by the Town attorney:

Nov. 4, 2010 Town of Salem Special Electors Meetings 7 PM as it pertains to item #5 Elector comments/questions:

I Christine Gustafson, being a qualified elector residing at 24001-119<sup>th</sup> St., Trevor, WI 53179 respectfully request that the Town of Salem's attorney be directed by the Town of Salem Board of Supervisors *to answer* the following questions for the Public Record and all the qualified electors present here tonight:

- 1.) Are only the motions on tonight's town meeting agenda allowed per state law, to be considered for action or, may a qualified elector make a motion not already on it, or may an elector make a secondary motion to amend any of the primary motions already on the agenda?
- 2.) What takes precedence specifically tonight:
  - a) the original legal notice and agenda *as published* or
  - b) the disseminated town document "special note\*" or
  - c) the powers of town chairperson of tonight's meeting under Wis. Stats. Ch. & Section 60.14(3)?
- 3.) As it pertains to: Wis. Stats. 60.12 (6) and Wis. Stats. 60.14(4) respectively, being *Special Town Meetings Jurisdiction & Procedure for Reconsideration of Actions*, can any qualified elector in attendance here tonight make a motion for reconsideration of actions as it relates to the published agenda items if it is within one hour after the initial vote was taken?
- 4.) Does the following statement apply equally to tonight's Town of Salem Special Electors Town

Meeting as it relates to the "Note:" that in the State Law for Wis. Stats. 60.12 sub. 2 "*Powers of town meeting, Directives or Grants of Authority to Town Board,*" .... "The terms "authorize" and "direct" in sub. (2) are not used interchangeably. A town meeting that "authorize(s)" an act gives the town board permission to do the act within its discretion, but if it "direct(s)" that an act be done, the action is mandatory. *Graziano v. Town of Long Lake*, 191 Wis. 2d 813, 530 N.W.2d 55 (Ct. App. 1995)."?????

Attorney Scholze responded that there are varying opinions on what the statutes permit. His opinion is that the electors at a special meeting of the electors have the authority to raise any issue which is within the jurisdiction of a town meeting under Ch. 60.10 of the WI State Statutes. However, he is aware, and doesn't necessarily agree that the Town's Association attorneys have a different opinion. Their opinion is that the electors make motions with respect to only the items that are on the notice for the meeting. This is different from the annual meeting. There are two (2) opinions. There are no reported appellate cases that he is aware of in Wisconsin that address that issue so there is no direction from a court nor any attorney general opinions. The chair of the meeting is left with the decision with regard as to how you want to handle this. Because there is a split in opinions here, the safer course is to stick to the items listed in the notice and if there are other issues the electors which to raise, call a separate meeting, list those items in the notice so that electors throughout the town have notice of what it is and you are protected from any claim that the electors took action and they weren't authorized. Discussion followed relative to the powers of the town meeting.

#### **OPEN MEETING COMPLIANCE CHECK**

The public hearing and special electors meeting notice and agenda was published in the Kenosha News 15 days prior and posted at the Town Hall Municipal Building, Salem Post Office, Camp Lake Post Office, Wilmot Post Office, and the Trevor Post Office. It was also posted on the Town's website.

#### **ELECTORS COMMENTS**

Eileene Anderson expressed her disappointment to the Town Board relative to the recent employee terminations and an employee's name being disclosed prior to the employee being informed.

6.) A request to have written into the Town Administrator's contract that residency to the State of Wisconsin, preferably the Town of Salem be required so that he will have a vested interest for the town that he is setting the budget for was presented.

Chairman Valentine requested that this item be moved until after item #11 and that the vote be done by secret ballot.

The electors by show of hands, with 31 voting NO, did not approve this request.

MOTION BY ELECTOR Bill Schulz, second by Elector Jan Wagner to have written into the Town Administrator's contract that residency to the State of Wisconsin.

Pat O'Connell stated that we would be limiting ourselves greatly if we did this.

Chris Gustafson has researched this and found that it will increase the costs by \$20,000 - \$50,000. We have a town chair that is paid \$15,000 and doing the things and administrator does. It would be hard to find someone in the town and this could step on constitutional rights Chris Skrzynechi questioned how many candidates for the administrator position were interviewed to which he was told five (5) out of approximately eighteen (18).

Mr. Skrzynechi then went on to point out that a move would force kids to change schools and force families to move and questioned who has the right to tell someone where to live. We don't have a right to force him to move here.

Dennis Faber said that during the interview the board asked if the administrator would move here, but he said he has kids. If the board had hired from Waukesha it would be an hour drive away. The administrator lives 20 minutes away.

Diann Tesar feels that he is more effective by not living here in ways.

UNANIMOUS VOTE – NAY

MOTION FAILED

**7.)** A request to explore incorporation (gather information) so that we can avoid losing parts of our borders to adjoining town and or villages. (Ie Paddock Lake and Silver Lake).

Attorney Scholze responded that to get this properly on the floor, it would probably be appropriate for an elector to make a motion and then an elector to second that, and then we can have discussion on it.

Elector Bill Schulz questioned why this is on the agenda when there was a NO vote on the referendum.

Chris Skrzynechi suggested that a volunteer citizen committee be formed to look at incorporation.

Chairman Valentine said that the intention was as a volunteer group.

MOTION BY ELECTOR Cindi Ernest to not pursue incorporation and pursue boundary agreements with The Villages of Silver and Twin Lakes.

MOTION FAILED FOR LACK OF A SECOND

**8.)** A request that the Town Board of Salem be prohibited from transferring funds from the Town of Salem Storm Water Utility District and the Town of Salem Sanitary Sewer Utility District for any other fund or funds used other than what they were collected for including the completion of necessary legal documents to document this electors decision was presented.

Teresa Curley questioned why funds are being transferred and what they are being used for. It was explained that these are amounts which are owed by other funds for work performed by the General Fund.

Discussion followed.

MOTION BY ELECTOR Bill Schulz, second by Elector Dan Campion that the Town Board of Salem be prohibited from transferring funds from the Town of Salem Storm Water Utility District and the Town of Salem Sanitary Sewer Utility District for any other fund or funds used other than what they were collected for.

Further discussion followed relative to the purpose of transferring funds with Attorney Scholze pointing out that Ch. 66 of the WI State Statutes authorizes deposits from the utility to the general fund.

Carole Dienthal asked how a non tax item can be transferred.

UNANIMOUS VOTE – NAY

MOTION FAILED

**9.)** A request that the Parks Commission be disabled and a Parks Department be created in order to better serve the community was presented.

There was discussion on this item with Elector Mike Murdock expressing the opinion that he goes to the Parks Commission meetings and he thinks they do a good job. People don't realize what it is they do. They do a lot of research, investigate things, and make recommendations to the board.

Elector Karen Ihlen stated that she doesn't think this is a good idea as it takes away community input.

There was no action taken on this item.

**10.)** The approval of the total 2011 Highway Expenditures pursuant to Section 82.03 of Wisconsin Statutes was presented.

MOTION BY ELECTOR Pat O'Connell, second by Elector Dennis Faber to approve the total 2011 Highway Expenditures pursuant to Section 82.03 of Wisconsin Statutes in the amount of \$858,779.00 as presented.

UNANIMOUS VOTE – AYE

MOTION CARRIED

**11.)** The approval of the 2010 Town of Salem tax levy, to be paid in 2011, pursuant to Section 60.10(1)(a) of Wisconsin Statutes was presented in the amount of \$3,419,470. This includes the library amount of \$341,170.

MOTION BY ELECTOR Bill Carey, second by Elector Greg Brown to approve the 2010 Town of Salem tax levy, to be paid in 2011, pursuant to Section 60.10(1)(a) of Wisconsin Statutes as presented in the amount of \$3,419,470, which includes the library amount of \$341,170.

UNANIMOUS VOTE – AYE

MOTION CARRIED

#### **ADJOURNMENT**

MOTION BY ELECTOR Mike Murdock, second by Dan Campion to adjourn this Special Electors meeting.

UNANIMOUS VOTE – AYE

MOTION CARRIED

**This Special Electors Meeting was adjourned at 8:42 p.m.**

*Respectfully submitted,*

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*Cindi Ernest, Clerk*